

REMARKS

Claims 11 and 38-41 have been amended. Claims 11-14, 17-20, 22-24 and 38-41 are pending and under consideration. Claims 11 and 38-41 are the independent claims. No new matter is presented in this Amendment.

REJECTIONS UNDER 35 U.S.C. §103:

Claims 11-14, 17-20, 24, and 30 are rejected under 35 U.S.C. §103(a) as being unpatentable over JP 9-171813 in view of Gao et al. (U.S. Pre-Grant Application No. 2002/0127175).

Regarding the rejection of independent claim 11, it is noted that claim 11, as amended, recites a method of preparing a positive active material for a rechargeable lithium battery comprising, amongst other novel features, coating at least one lithiated compound with an organic solution of coating material source, the organic solution excluding water and prepared by adding a coating material source to an organic solvent forming a mixture, to produce a coated lithiated compound, wherein the surface treatment layer includes a coating element-included hydroxide, oxyhydroxide, oxycarbonate, hydroxycarbonate or a mixture thereof, and wherein the at least one lithiated compound is prepared by mixing a lithium source, a metal source, and a solvent and the mixture is heat-treated twice.

The Office Action relies on JP '813 for some of the teachings of claim 11 and states that the reference teaches a coating material source (aluminum alkoxide and lithium alkoxide) added to a lower alcohol solvent (ethanol) to form a solution. The reference further teaches that water is added to the mixture and the coating material is formed on the surface of the lithiated compound.

Accordingly, JP '813 teaches an organic solution including an aqueous solution. Contrary to JP '813 independent claim 11 now recites coating at least one lithiated compound with an organic solution of coating material source, the organic solution excluding water and prepared by adding a coating material source to an organic solvent to form a mixture. In other words, the organic solution does not include water, as taught by JP '813.

Therefore, Applicants respectfully assert that JP '813 fails to teach or suggest, at least, this novel feature of independent claim 11.

Gao, on the other hand, discloses coating a compound with cobalt and dopant source

compounds prepared as a solution in a solvent such as water (paragraph [0034]). Therefore, Gao also discloses an aqueous solution, and thus fails to cure the deficiencies of the JP '813 reference.

Accordingly, Applicants respectfully assert that the rejection of claim 11 under 35 U.S.C. §103(a) should be withdrawn because neither the JP '813 reference nor Gao, whether taken singly or combined, teach or suggest each feature of independent claim 11.

Regarding the rejections of independent claim 39, it is noted that this claim recites some substantially similar features as claim 11. Thus, the rejection of this claim is also traversed for substantially the same reasons set forth above.

Furthermore, Applicants respectfully assert that dependent claims 12-14, 17-20 and 24 are allowable at least because of their dependency from claim 11, and because they include additional features which are not taught or suggested by the prior art. Therefore, it is respectfully submitted that claims 12-14, 17-20 and 24 also distinguish over the prior art.

Claims 22, 23, 38 and 40 are rejected under 35 U.S.C. §103(a) as being unpatentable over JP 9-171813 in view of Gao et al. (U.S. Pre-Grant Application No. 2002/0127175) as applied to claims 11-14, 17-20, 24 and 39 above, and further in view of Maegawa et al. (U.S. Patent No. 6,383,235).

Initially it is noted that independent claims 38 and 40 recite some substantially similar features as claim 11, and as noted above, neither the JP '813 reference nor Gao, whether taken singly or combined, teach or suggest, the novel feature recited in claims 38 and 40.

In particular, the JP '813 reference and Gao fail to teach or suggest that the organic solution of coating material source excludes water. Thus, the rejection of claims 38 and 40 is also traversed for substantially the same reasons set forth above.

Maegawa, on the other hand, is relied upon solely for a teaching of a spray-drying method and thus fails to cure the deficiencies of the JP '813 reference and Gao.

Accordingly, Applicants respectfully assert that the rejection of claims 38 and 40 under 35 U.S.C. § 103(a) should be withdrawn because neither the JP '813 reference, Gao nor Maegawa, whether taken singly or combined, teach or suggest each feature of independent claims 38 and 40.

Regarding the rejections of claims 22 and 23, it is noted that these claims depend from

independent claim 11, and as noted above, neither the JP '813 reference, Gao nor Maegawa, whether taken singly or combined, teach or suggest the novel features of independent claim 11 from which claims 22 and 23 depend.

Accordingly, Applicants respectfully assert that the rejection of claims 22 and 23 under 35 U.S.C. § 103(a) should be withdrawn at least because of their dependency from claim 11.

Claim 41 is rejected under 35 U.S.C. §103(a) as being unpatentable over JP 9-171813 in view of Gao et al. (U.S. Pre-Grant Application No. 2002/0127175) as applied to claims 11-14, 17-20, 24 and 39 above, and further in view of Shindo et al. (U.S. Patent No. 6,045,947).

Regarding the rejection of independent claim 41, it is noted that claim 41 also recites an organic solution excluding water and prepared by adding a coating material source to an organic solvent to form a mixture and to produce a coated lithiated compound.

As noted above, neither the JP '813 reference nor Gao, whether taken singly or combined, teach or suggest this novel feature.

Shindo, on the other hand, is relied upon for a teaching of features other than those of the organic solution excluding water and prepared by adding a coating material source to an organic solvent to form a mixture and to produce a coated lithiated compound. Therefore, Shindo fails to cure the deficiencies of the JP '813 reference and of Gao.

Accordingly, Applicants respectfully assert that the rejection of claim 41 under 35 U.S.C. §103(a) should be withdrawn because neither the JP '813 reference, Gao nor Shindo, whether taken singly or combined, teach or suggest each feature of independent claim 41.

DOUBLE PATENTING:

Claims 11-14, 17-20, 24 and 30 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of U.S. Patent Nos. 6,753,111, 6,797,435, and 6,846,592 in view of Gao et al.

Applicants submit herewith a Terminal Disclaimer with respect to U.S. Patent Nos. 6,753,111, 6,797,435, and 6,846,592. In view of the above, it is respectfully submitted that the rejection of claims 11-14, 17-20, 24 and 30 is overcome.

Claims 22, 23, 38 and 40 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of U.S. Patent Nos. 6,753,111, 6,797,435, and 6,846,592 in view of Gao et al. and further in view of Maegawa et al.

Applicants submit herewith a Terminal Disclaimer with respect to U.S. Patent Nos. 6,753,111, 6,797,435, and 6,846,592. In view of the above, it is respectfully submitted that the rejection of claims 22, 23, 38 and 40 is overcome.

Claim 41 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of U.S. Patent Nos. 6,753,111, 6,797,435, and 6,846,592 in view of Gao et al. as applied above and further in view of Shindo et al.

Applicants submit herewith a Terminal Disclaimer with respect to U.S. Patent Nos. 6,753,111, 6,797,435, and 6,846,592. In view of the above, it is respectfully submitted that the rejection of claim 41 is overcome.

CONCLUSION:

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

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